IN THE HIGH COURT OF BOMBAY AT GOA
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WRIT PETITION NO. 226 OF 2004

Shri Vasant Ramnath Naik,
r/o House No. 1217,
Annawaddo, Candolim,
Goa. ... Petitioner

Versus

1. State of Goa,
through its Secretary
(Power), Panaji, Goa,

2. The Chief Electrical
Engineer, Electricity
Department, Govt. of
Goa, Candolim, Goa,

3. The Assistant Electrical
Engineer, S/D-V,
Electricity Department,
Govt. of Goa, Candolim,
Goa,

4. Shri Gopalkrishna P.
Naik Chodankar, major,
r/o Annawaddo, Candolim,
Bardez, Goa, and

5. Shri Vaikunth P. Naik,
major, r/o Annawaddo,
Candolim, Bardez, Goa. ... Respondents.

Shri S. D. Lotlikar, Senior Advocate with Ms. Shreya Naik, advocate for the petitioner.

Ms. Winnie Coutinho, Government Advocate for the respondent nos. 1 to 3.

CORAM : S. A. BOBDE &
N. A. BRITTO, JJ.

DATE : 9th June, 2004.

ORAL ORDER

It appears that the dispute between the parties is as to the status of the petitioner qua the premises in question.

2. At one stage the petitioner appears to have represented that he is the owner of the premises in question and sought the continuation of the electricity supply on that basis. At another stage it appears that the petitioner's case is that he has been a lawful occupant of the premises from about 1981. In view of the apparent contradiction, the respondent, Department of Electricity, has issued a notice to the petitioner asking him to show cause why the connection to his residential premises should not be discontinued. The petitioner has replied to the Show Cause Notice and that has culminated in the order which refers to the contradictory stand of the petitioner dated 18th May, 2004 and holds that in effect he is not entitled to assert his status as a lawful occupant and since he has not produced a document relevant to the ownership of the house, the power supply which is restored as per the Court's directive is liable for disconnection.

3. At the hearing of the matter, the learned counsel for the respondent nos.1 to 3 relied on paragraph 2 of the Notification No.2/51/87-Power dated 6th November, 1989, paragraph 2(b) of which reads as follows:-

> "(b) An intending consumer who is not the owner of the premises he occupies, shall produce to the Electricity Department that documentary proof such as consent of the owner or an affidavit sworn in before the Mamlatdar or Magistrate or rent receipts in his/her name to prove that he/she is the lawful occupier of the premises for which the

electric connection is sought."

4. It is clear from the circumstances that an intending consumer need not necessarily be the owner in order to obtain electric supply, ofcourse on compliance with the other requisite conditions. Having regard to the circumstance of this case, and particularly, to the fact that the petitioner claims to be in possession of the premises as lawful occupant from about the year 1981 and having regard to the fact that the Court of the Rent Controller had directed restoration of the electricity supply to the premises, we are of the view that the petitioner cannot be denied electricity supply merely because the petitioner is not found to be the owner of the house. It is necessary for the respondents to give an opportunity to the petitioner to establish whether he falls into any other category of persons entitled to supply of electricity.

5. In the circumstances, we set aside the impugned Order dated 18th May, 2004 at Annexure 'L' passed by the Assistant Engineer, Electricity Department, S/D-V, Candolim and direct the respondent nos.2 and 3 to hear the petitioner afresh after giving him such an opportunity of hearing and an opportunity to produce such relevant documents pertaining to the occupation of the premises in question. The respondents shall decide the matter afresh in accordance with law. In the meanwhile, the electricity

supply to the petitioner's residential premises shall not be discontinued on this ground alone.

S. A. BOBDE, J.

N. A. BRITTO, J.

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